PATENT
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Weltzin et al.	Confirmation No.:	1402
Serial No:	10/826,680	Art Unit:	1648
Filed:	April 16, 2004	Examiner:	Stuart Snyder
Customer No.:	21559		
Title:	Vaccinia Virus Strains		

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REPLY TO RESTRICTION REQUIREMENT

In reply to the Restriction Requirement that was mailed in connection with the above-captioned patent application on December 15, 2006, Applicants elect the invention of Group I and the peptide sequence of SEQ ID NOs:244, which is encoded by the nucleic acid molecule sequence of SEQ ID NO:243. This election is made with traverse.

Applicants respectfully request reconsideration of the Restriction Requirement. In particular, in addition to SEQ ID NO:243, the peptide sequence of SEQ ID NO:244 is also encoded by the sequence of SEQ ID NO:2. Thus, Applicants request that SEQ ID NO:2 also be considered in this application.

Further, Applicants note that the other peptide sequences of the claims are also encoded by the sequence of SEQ ID NO:2, and request that additional peptide sequences be searched. The inclusion of additional sequences in this application is supported by M.P.E.P. § 803.04, which provides:

> Polynucleotide molecules defined by their nucleic acid sequence (hereinafter "nucleotide sequences") that encode different proteins are structurally distinct

chemical compounds. These sequences are thus deemed to normally constitute independent and distinct inventions within the meaning of 35 U.S.C. 121. Absent evidence to the contrary, each such nucleotide sequence is presumed to represent an independent and distinct invention, subject to a restriction requirement pursuant to 35 U.S.C. 121 and 37 CFR 1.141 *et seq*. Nevertheless, to further aid the biotechnology industry in protecting its intellectual property without creating an undue burden on the Office, the Director has decided *sua sponte* to partially waive the requirements of 37 CFR 1.141 *et seq.* and permit a reasonable number of such nucleotide sequences to be claimed in a single application. See *Examination of Patent Applications Containing Nucleotide Sequences,* 1192 O.G. 68 (November 19, 1996).

It has been determined that normally ten sequences constitute a reasonable number for examination purposes. Accordingly, in most cases, up to ten independent and distinct nucleotide sequences will be examined in a single application without restriction. In addition to the specifically selected sequences, those sequences which are patentably indistinct from the selected sequences will also be examined. Furthermore, nucleotide sequences encoding the same protein are not considered to be independent and distinct inventions and will continue to be examined together.

Consistent with this, Applicants request examination of the following additional sequences:

SEQ ID NO:166 (encoded by SEQ ID NO:165 and SEQ ID NO:2);

SEQ ID NO:194 (encoded by SEQ ID NO:193 and SEQ ID NO:2);

SEQ ID NO:220 (encoded by SEQ ID NO:219 and SEQ ID NO:2);

SEQ ID NO:224 (encoded by SEQ ID NO:223 and SEQ ID NO:2);

SEQ ID NO:254 (encoded by SEQ ID NO:253 and SEQ ID NO:2);

SEQ ID NO:282 (encoded by SEQ ID NO:281 and SEQ ID NO:2);

SEQ ID NO:284 (encoded by SEQ ID NO:283 and SEQ ID NO:2);

SEQ ID NO:292 (encoded by SEQ ID NO:291 and SEQ ID NO:2); and

SEQ ID NO:318 (encoded by SEQ ID NO:317 and SEQ ID NO:2).

Enclosed is a petition to extend the period for replying to the Restriction Requirement for one month. If there are any additional charges or any credits, please apply them to Deposit Account No. 03-2095.

Respectfully submitted,

Date: February 14, 2007

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